



# UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE  
United States Patent and Trademark Office  
Address: COMMISSIONER OF PATENTS AND TRADEMARKS  
P.O. Box 1450  
Alexandria, Virginia 22313-1450  
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/838,535	04/19/2001	Byoung In Cho	20150-0520 (45882-252580)	9277

23370 7590 05/05/2003

JOHN S. PRATT, ESQ.  
KILPATRICK STOCKTON, LLP  
1100 PEACHTREE STREET  
SUITE 2800  
ATLANTA, GA 30309

EXAMINER

GRAY, LINDA LAMEY

ART UNIT	PAPER NUMBER
----------	--------------

1734

DATE MAILED: 05/05/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

09/838,535

Applicant(s)

CHO ET AL.

Examiner

Linda L Gray

Art Unit

1734

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 4-19-01, 7-2-01, 7-30-02, and 4-7-03.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-62 is/are pending in the application.
- 4a) Of the above claim(s) 28-40 and 54-62 is/are withdrawn from consideration.
- 5) ☒ Claim(s) 1-27, 42-47, and 49-53 is/are allowed.
- 6) ☒ Claim(s) 41 and 48 is/are rejected.
- 7) ☒ Claim(s) 48 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 19 April 2001 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

### Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 4.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☒ Other: See Continuation Sheet.

Continuation of Attachment(s) 6). Other: The declaration filed 7-2-01 has been entered.

**Detailed Action**

**Election/Restrictions**

1. Applicants' election without traverse of **claims 1-15, 22-27, and 41-53** (paper 9) is acknowledged. **Claims 16-21** have also been examined in that such are not patentably distinct from claims 1-15, 22-27, and 41-53. **Claims 28-40 and 54-62** are withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected invention, there being no allowable generic or linking claim.

**Claim Objections**

2. **Claim 48** is objected to under 37 CFR 1.75 as being a substantial duplicate of claim 41. When two claims in an application are duplicates or else are so close in content that they both cover the same thing, despite a slight difference in wording, it is proper after allowing one claim to object to the other as being a substantial duplicate of the allowed claim. See MPEP § 706.03(k).

**Claim Rejections - 35 USC § 102**

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless – (b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. **Claims 41 and 48 are rejected under 35 U.S.C. 102(b) as being anticipated by English, Jr. (US 4,267,927).**

**Claims 41 and 48**, English teaches a method of forming a product including applying to a layer of bubble pack 38 having a plurality of bubbles that extend outwardly from pack 38 and also have interstices between adjacent bubbles a viscoelastic composition 34 such that composition 34 at least partially fills the interstices of pack 38, and curing composition 34 (c 4, L 4-20; c 7, L 39-60; c 8, L 36-57; c 9, L 43, to c 10, L 36).

**Allowable Subject Matter**

**5. Claims 1-27, 42-47, and 49-53 allowed.**

The following is a statement of reasons for the indication of allowable subject matter:

**claims 1 and 6:** English indicates curing composition 34 because such is hardened in place, however, English does not teach that the curing chemically bonds to pack 38 in that composition 34; **claim 11:** English does not teach applying pressure to composition 34 and pack 38 and applying to a surface of composition 34 heat of a temperature and a time sufficient to cure composition; **claims 16:** English does not teach that the curing forms a laminate of substrate 28, composition 34, and pack 38; **claim 22:** English does not teach applying a substrate to composition 34 after the layer of composition 34 is applied to pack 38; and


**claims 1, 6, 11, 16, 22, 41, and 48:** Tillotson (US 4,132,817) and Alderfer (US 2,726,186) do not teach using bubble pack and such would not have been obvious in that Tillotson (c 4, L 44-62) and Alderfer (c 3, L 10-14) use fabric instead and intend the foam to penetrate into the fabric.

**6.** As allowable subject matter has been indicated, Applicants' reply must either comply with all formal requirements or specifically traverse each requirement not complied with. See 37 CFR 1.111(b) and MPEP § 707.07(a).

**Conclusion**

**7.** Any inquiry concerning this or earlier communications should be directed Linda L. Gray at 703-308-1093, 6:30am-4:00pm, M-F. The examiner's supervisor, Richard Crispino, can be reached on 703-308-3853. Any general inquiries should be directed to the receptionist at 703-308-0661. The fax numbers are 703-305-7718 (before final) and 703-872-9311 (after final).

llg  
May 2, 2003

  
LINDA GRAY  
PRIMARY EXAMINER